

SENATE BILL 219

P2

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By: **Senator Manno**

Introduced and read first time: January 20, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Public Work Contracts – Project Labor Agreements**

3 FOR the purpose of requiring certain public bodies to include project labor agreements
4 in public work contracts under certain circumstances; providing a certain
5 exception; providing for the content of a project labor agreement; requiring a
6 public body to disclose certain findings that justify the inclusion of a project
7 labor agreement in a public work contract; requiring a public body to develop a
8 written project labor agreement, subject to certain conditions; requiring the
9 Commissioner of Labor and Industry to adopt certain regulations; defining
10 certain terms; and generally relating to project labor agreements and public
11 work contracts.

12 BY adding to

13 Article – State Finance and Procurement
14 Section 17–701 through 17–704 to be under the new subtitle “Subtitle 7. Project
15 Labor Agreements – Public Work Contracts”
16 Annotated Code of Maryland
17 (2009 Replacement Volume and 2011 Supplement)

18 Preamble

19 WHEREAS, Project labor agreements are craft labor agreements authorized
20 under federal labor law in accordance with 29 U.S.C. § 158(f); and

21 WHEREAS, Project labor agreements are authorized by law as a result of a
22 judicial decision from the United States Supreme Court in the case of Building &
23 Construction Trades Council of the Metropolitan District v. Associated Builders &
24 Contractors of Massachusetts/Rhode Island, Inc., et. al., 507 U.S. 218 (1993); and

25 WHEREAS, The State has compelling economic and proprietary interests in
26 ensuring that State contracts for the construction of State facilities and roads are

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 completed in accordance with project schedules, with the highest degree of quality,
2 and in a safe and cost-effective manner; and

3 WHEREAS, Construction projects present particularly difficult challenges in
4 terms of ensuring timely, cost-effective project delivery and require large numbers of
5 well-trained, highly skilled construction craft personnel in a variety of specific trades
6 and crafts; and

7 WHEREAS, Successful project delivery can be more effectively promoted by
8 adopting measures that ensure that projects are properly staffed with adequate
9 numbers of craft workers adequately trained in the respective construction crafts; and

10 WHEREAS, Project labor agreements are executed by project contractors and
11 local labor organizations in the building trades and typically used on large
12 construction projects to establish a reliable supply of safe, skilled craft personnel and
13 establish uniform terms and conditions of employment for the project work force; and

14 WHEREAS, Project labor agreements provide a reliable means for ensuring
15 that construction projects will be adequately staffed with sufficient numbers of highly
16 skilled and properly trained craft personnel and promote the efficient, economical, and
17 safe completion of such projects, thereby demonstrating for these reasons alone that
18 the State has a sufficient compelling interest in requiring the use of project labor
19 agreements for construction projects to protect its investments and proprietary
20 interests in the projects; and

21 WHEREAS, Project labor agreements further promote timely, successful project
22 delivery by including legally enforceable guarantees against labor strikes and
23 employer lockouts and also provide procedures to ensure the peaceful, efficient, and
24 orderly resolution of labor-management disputes or other disputes or potential
25 disruptions that could otherwise interfere with the completion of construction projects;
26 and

27 WHEREAS, Project labor agreements have a long and extensive history of
28 effectively protecting and promoting the financial investments and proprietary
29 interests of both public and private project owners in the planning, execution, and
30 management of major capital facility projects and have a proven track record of being
31 an effective tool for these purposes; and

32 WHEREAS, Project labor agreements also provide a reliable means for ensuring
33 that construction craft personnel employed on projects are paid appropriate wages as
34 required by law, receive essential construction safety training, and are covered by
35 applicable unemployment and workers' compensation laws; and

36 WHEREAS, Project labor agreements facilitate recruitment and workforce
37 development in the construction industry and promote the growth of high quality
38 apprenticeship training programs and it is in the State's proprietary interests to

1 expand such training and workforce development initiatives to help build a reliable
2 pool of skilled craft labor for future State projects; now, therefore,

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – State Finance and Procurement**

6 **SUBTITLE 7. PROJECT LABOR AGREEMENTS – PUBLIC WORK CONTRACTS.**

7 **17-701.**

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (B) “COMMISSIONER” MEANS THE COMMISSIONER OF LABOR AND
11 INDUSTRY.

12 (C) “CONSTRUCTION” HAS THE MEANING STATED IN § 17-201 OF THIS
13 TITLE.

14 (D) “LABOR ORGANIZATION” MEANS A LABOR ORGANIZATION AS
15 DEFINED IN 29 U.S.C. § 152(5) ENGAGED IN THE CONSTRUCTION INDUSTRY.

16 (E) “PROJECT LABOR AGREEMENT” MEANS AN AGREEMENT THAT
17 COVERS ALL TERMS AND CONDITIONS OF EMPLOYMENT ON A PUBLIC WORK
18 CONTRACT.

19 (F) “PUBLIC BODY” HAS THE MEANING STATED IN § 17-201 OF THIS
20 TITLE.

21 (G) “PUBLIC WORK” HAS THE MEANING STATED IN § 17-201 OF THIS
22 TITLE.

23 (H) “PUBLIC WORK CONTRACT” HAS THE MEANING STATED IN § 17-201
24 OF THIS TITLE.

25 **17-702.**

26 (A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND EXCEPT
27 AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC BODY SHALL
28 INCLUDE A PROJECT LABOR AGREEMENT AS A REQUIREMENT OF A PUBLIC
29 WORK CONTRACT IF THE PUBLIC BODY DETERMINES THAT THE PROJECT LABOR
30 AGREEMENT ADVANCES THE STATE’S INTERESTS REGARDING:

- 1 **(I) COST;**
2 **(II) EFFICIENCY;**
3 **(III) QUALITY;**
4 **(IV) SAFETY;**
5 **(V) TIMELINESS;**
6 **(VI) A SKILLED LABOR FORCE; OR**
7 **(VII) LABOR STABILITY.**

8 **(2) THIS SUBSECTION DOES NOT APPLY TO A PUBLIC WORK**
9 **CONTRACT OF LESS THAN \$500,000.**

10 **(B) A PROJECT LABOR AGREEMENT INCLUDED IN A PUBLIC WORK**
11 **CONTRACT SHALL:**

12 **(1) INCLUDE IMMEDIATE AND MUTUALLY BINDING PROCEDURES**
13 **FOR RESOLVING JURISDICTIONAL LABOR DISPUTES AND GRIEVANCES BEFORE**
14 **COMPLETION OF WORK;**

15 **(2) PROHIBIT STRIKES, LOCKOUTS, OR SIMILAR ACTIONS;**

16 **(3) ENSURE A RELIABLE SOURCE OF SKILLED AND EXPERIENCED**
17 **LABOR;**

18 **(4) ALLOW THE SELECTION OF THE LOWEST QUALIFIED**
19 **RESPONSIBLE BIDDER, WITHOUT REGARD TO UNION OR NONUNION STATUS AT**
20 **OTHER CONSTRUCTION SITES;**

21 **(5) BIND ALL CONTRACTORS AND SUBCONTRACTORS ON THE**
22 **PUBLIC WORK CONTRACT THROUGH THE INCLUSION OF APPROPRIATE BID**
23 **SPECIFICATIONS IN ALL RELEVANT BID DOCUMENTS; AND**

24 **(6) INCLUDE OTHER TERMS THAT THE PARTIES DEEM**
25 **APPROPRIATE.**

26 **17-703.**

1 **IF A PUBLIC WORK CONTRACT INCLUDES A PROJECT LABOR AGREEMENT,**
2 **THE PUBLIC BODY SHALL DEVELOP A WRITTEN PROJECT LABOR AGREEMENT**
3 **THAT:**

4 **(1) INCLUDES THE PROVISIONS IN THIS SUBTITLE, AND OTHER**
5 **TERMS AND CONDITIONS NECESSARY FOR SECURING AN ADEQUATE SUPPLY OF**
6 **PROPERLY SKILLED AND TRAINED LABOR PERSONNEL NEEDED FOR THE**
7 **PROJECT;**

8 **(2) IS EXECUTED BY LABOR ORGANIZATIONS WHICH HAVE THE**
9 **CAPABILITIES TO SUPPLY ADEQUATE NUMBERS OF PROPERLY SKILLED AND**
10 **TRAINED LABOR PERSONNEL NEEDED FOR THE PROJECT; AND**

11 **(3) IS INCLUDED IN THE PROCUREMENT CONTRACT FOR THE**
12 **PROJECT THROUGH APPLICABLE CONTRACT SPECIFICATIONS.**

13 **17-704.**

14 **THE COMMISSIONER SHALL ADOPT REGULATIONS REASONABLY**
15 **REQUIRED TO CARRY OUT THIS SUBTITLE.**

16 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
17 **October 1, 2012.**